

is impracticable, unnecessary, or contrary to the public interest, such adjustment will be published as an interim final rule with a 15-day public comment period commencing on the date of publication.

[56 FR 65019, Dec. 13, 1991, as amended at 57 FR 34266, Aug. 4, 1992; 58 FR 33569, June 18, 1993; 60 FR 46778, Sept. 8, 1995; 60 FR 51934, Oct. 4, 1995; 61 FR 27307, May 31, 1996]

**§ 630.25 Closures and bycatch limits.**

(a) *Notice of closure.* (1) When a directed-fishery annual, semi-annual, or gear quota specified in § 630.24 is reached, or is projected to be reached, NMFS will publish a notice in the FEDERAL REGISTER to close the entire directed fishery for fish from the North Atlantic swordfish stock, the drift gillnet fishery, or the harpoon and longline fisheries, as appropriate. The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. The closure will remain in effect until an additional directed-fishery or gear quota becomes available.

(2) When the bycatch quota specified in § 630.24(c) is reached, or is projected to be reached, NMFS will publish a notice in the FEDERAL REGISTER to prohibit further possession or retention of Atlantic swordfish by vessels of the United States. The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. The closure will remain in effect until a new annual bycatch quota becomes available.

(b) *Special set-aside for harpoon gear.* The procedures of paragraph (a)(1) of this section notwithstanding, during the June 1 through November 30 semi-annual period, swordfish not exceeding 21,500 lb (9,752 kg), dressed weight, may be set aside for the harpoon segment of the fishery. If NMFS determines that the harpoon and longline quota in this semi-annual period will be harvested before the harpoon segment of the fishery has had an opportunity to harvest the set-aside amount, the longline segment of the fishery will be closed and the harpoon segment will remain open until the set-aside amount is reached. The basis for such determination by

NMFS will be published in the FEDERAL REGISTER in the closure notice.

(c) *Bycatch limits during a directed-fishery closure.* (1) During a closure of the drift gillnet fishery, aboard a vessel using or having aboard a drift gillnet—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5°N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(2) During a closure of the longline fishery, aboard a vessel using or having aboard a longline and not having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No more than 15 swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. The Assistant Administrator may modify or change the bycatch limits upon publication of notice in the FEDERAL REGISTER pursuant to the requirements and procedures in paragraphs (a)(1) and (a)(2) of this section. Changes in the bycatch limits will be based upon the length of the directed fishery closure as well as the estimated catch per vessel in the non-directed fishery.

(3) During a closure of the harpoon fishery, aboard a vessel using or having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No swordfish may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5°N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(d) *Bycatch limits in the non-directed fishery.* Aboard a vessel using or having aboard gear other than drift gillnet, harpoon, or longline, other than a vessel in the recreational fishery—

(1) A person may not fish for swordfish from the North Atlantic swordfish stock;

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(2) Except as specified in paragraph (d)(3) of this section, no more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5°N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state; and

(3) Aboard a vessel in the squid trawl fishery, no more than five swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5°N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. For the purposes of this paragraph (d)(3), a vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawl gear aboard and squid constitute not less than 75 percent by weight of the total fish aboard or off-loaded from the vessel.

(e) *Limits during a bycatch closure.* During a closure of the bycatch fishery under paragraph (a)(2) of this section, the provisions of paragraphs (c) and (d) of this section notwithstanding, aboard a fishing vessel, other than a vessel in the recreational fishery—

(1) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(2) No swordfish may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5°N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

[56 FR 65019, Dec. 13, 1991, as amended at 57 FR 34266, Aug. 4, 1992; 60 FR 46778, Sept. 8, 1995; 61 FR 27308, May 31, 1996; 61 FR 34746, July 3, 1996]

### § 630.26 Specifically authorized activities.

NMFS may authorize for the acquisition of information and data, activities that are otherwise prohibited by these regulations.

## Subpart C—Restrictions on Swordfish Imports

### § 630.40 Applicability.

The policies and procedures contained in 50 CFR 285.80 through 285.86, which implement the provisions of section 6(c) of the Atlantic Tunas Conven-

tion Act, 16 U.S.C. 971 *et seq.*, with respect to import controls and which specify procedures for the establishment of restrictions on imports of tuna, apply to swordfish from the North Atlantic swordfish stock.

## Subpart D—Donation Program

SOURCE: 59 FR 55064, Nov. 3, 1994, unless otherwise noted.

### § 630.50 Purpose.

This subpart implements a program under which swordfish from the North Atlantic swordfish stock that are retained in excess of the trip allowance for undersized swordfish specified in § 630.23(b) must be retained for donation through the Second Harvest National Foodbank Network to the needy. This program is intended to obtain additional information regarding the harvest, mortality, and biological characteristics of swordfish less than the minimum size limit and to avoid waste of swordfish that would otherwise be discarded dead.

### § 630.51 Participation.

(a) *General.* Owners of vessels and dealers permitted under § 630.4 may volunteer to participate in the swordfish donation program by contacting the Chief, Highly Migratory Species Division, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713-2347, facsimile (301) 588-4967. The Chief, Highly Migratory Species Division, will select owners of vessels and dealers who may participate in the donation program and will keep selected vessel owners advised of the selected dealers.

(1) Factors that will be considered in the selection process include:

(i) History of voluntary participation in NMFS cooperative scientific programs;

(ii) Whether both vessel and dealer volunteers can be matched in an area throughout the year (including truck routes) to ensure distribution of donated fish;

(iii) Representative coverage of the fishery, to the extent possible; and

(iv) Compliance record of volunteers. Specifically, any person who has been